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HOUSE BILL NO. 500
Offered January 10, 2024
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A BILL to amend and reenact §§ 22.1-1, as it shall become effective, 22.1-20.4, and 22.1-253.13:3 of the Code of Virginia, relating to Standards of Quality; Standards of Learning assessments; development and administration of assessments; assessments in languages other than English; requirements.

Patron—Cohen

Referred to Committee on Education

Be it enacted by the General Assembly of Virginia:

1. That §§ 22.1-1, as it shall become effective, 22.1-20.4, and 22.1-253.13:3 of the Code of Virginia are amended and reenacted as follows:

§ 22.1-1. (For effective date, see Acts 2022, cc. 549, 550, cl. 2) Definitions.

As used in this title, unless the context requires a different meaning:

"Board" or "State Board" means the Board of Education.

"Department" means the Department of Education.

"Division superintendent" means the division superintendent of schools of a school division.

"Elementary" includes kindergarten.

"Elementary and secondary" and "elementary or secondary" include elementary, middle, and high school grades.

"Evidence-based literacy instruction" means structured instructional practices, including sequential, systematic, explicit, and cumulative teaching, that (i) are based on reliable, trustworthy, and valid evidence consistent with science-based reading research; (ii) are used in core or general instruction, supplemental instruction, intervention services, and intensive intervention services; (iii) have a demonstrated record of success in adequately increasing students' reading competency, vocabulary, oral language, and comprehension and in building mastery of the foundational reading skills of phonological and phonemic awareness, alphabetic principle, phonics, spelling, and text reading fluency; and (iv) are able to be differentiated in order to meet the individual needs of students.

"Governing body" or "local governing body" means the board of supervisors of a county, council of a city, or council of a town, responsible for appropriating funds for such locality, as the context may require.

"Middle school" means separate schools for early adolescents and the middle school grades that might be housed at elementary or high schools.

"Parent" or "parents" means any parent, guardian, legal custodian, or other person having control or charge of a child.

"Person of school age" means a person who will have reached his fifth birthday on or before September 30 of the school year and who has not reached twenty years of age on or before August 1 of the school year.

"School board" means the school board that governs a school division.

"Science-based reading research" means research that (i) applies rigorous, systematic, and objective observational or experimental procedures to obtain valid knowledge relevant to reading development, reading instruction, and reading and writing difficulties and (ii) explains how proficient reading and writing develop, why some children have difficulties developing key literacy skills, and how schools can best assess and instruct early literacy, including the use of evidence-based literacy instruction practices to promote reading and writing achievement.

"Superintendent" means the Superintendent of Public Instruction.

"Universal Design for Learning" or "UDL" means a scientifically valid framework for guiding educational practice that (i) provides flexibility in the ways information is presented, in the ways students respond or demonstrate knowledge and skills, and in the ways students are engaged and (ii) reduces barriers in instruction, provides appropriate accommodations, supports, and challenges, and maintains high achievement expectations for all students who have limited English proficiency.

§ 22.1-20.4. Alternative assessments for students who are English language learners.

A. The Board of Education shall consider assessments aligned to develop and implement policies for the development and administration of Standards of Learning that are structured and formatted assessments in a way that measures the content knowledge of languages other than English that are present to a significant extent in the participating student population. Such policies shall provide that:

1. Each local school board shall provide appropriate accommodations on Standards of Learning assessments for eligible students who are English language learners and that may be administered to such students as Board of Education-approved alternatives to, including providing for the administration of

59 Standards of Learning ~~end-of-course English reading~~ assessments developed pursuant to subsection C of §
60 22.1-253.13:3 in such language and form most likely to yield valid and reliable information on such student's
61 content knowledge;

62 2. Any student who is an English language learner who is identified as having limited English proficiency
63 shall be eligible for administration of such assessments in a language other than English, subject to the
64 determination of the local school board and the English language learner faculty at such student's school,
65 provided, however, that any such student who has participated in an English language proficiency program
66 for more than a total of three school years shall be ineligible to take such assessments in a language other
67 than English; and

68 3. Notwithstanding the provisions of subdivision 2, each local school board, on the recommendation of
69 English language learner faculty, may provide on an individual case-by-case basis for the administration of a
70 Standards of Learning assessment in a language other than English for any student who is an English
71 language learner for a period that does not exceed two additional consecutive years, provided that such
72 student has not yet reached a level of English proficiency sufficient to yield valid and reliable information on
73 such student's content knowledge on assessments administered in English.

74 B. Each local school board may, in accordance with the provisions of subsection A, provide for the
75 administration of Standards of Learning assessments developed pursuant to subsection C of § 22.1-253.13:3
76 in languages other than English.

77 **§ 22.1-253.13:3. Standard 3. Accreditation, other standards, assessments, and releases from state**
78 **regulations.**

79 A. The Board shall promulgate regulations establishing standards for accreditation pursuant to the
80 Administrative Process Act (§ 2.2-4000 et seq.), which shall include (i) student outcome and growth
81 measures, (ii) requirements and guidelines for instructional programs and for the integration of educational
82 technology into such instructional programs, (iii) administrative and instructional staffing levels and
83 positions, including staff positions for supporting educational technology, (iv) student services, (v) auxiliary
84 education programs such as library and media services, (vi) requirements for graduation from high school,
85 (vii) community relations, and (viii) the philosophy, goals, and objectives of public education in the
86 Commonwealth.

87 The Board shall promulgate regulations establishing standards for accreditation of public virtual schools
88 under the authority of the local school board that enroll students full time.

89 The Board's regulations establishing standards for accreditation shall ensure that the accreditation process
90 is transparent and based on objective measurements and that any appeal of the accreditation status of a school
91 is heard and decided by the Board.

92 The Board shall review annually the accreditation status of all schools in the Commonwealth. The Board
93 shall review the accreditation status of a school once every three years if the school has been fully accredited
94 for three consecutive years. Upon such triennial review, the Board shall review the accreditation status of the
95 school for each individual year within that triennial review period. If the Board finds that the school would
96 have been accredited every year of that triennial review period the Board shall accredit the school for another
97 three years. The Board may review the accreditation status of any other school once every two years or once
98 every three years, provided that any school that receives a multiyear accreditation status other than full
99 accreditation shall be covered by a Board-approved multiyear corrective action plan for the duration of the
100 period of accreditation. Such multiyear corrective action plan shall include annual written progress updates to
101 the Board. A multiyear accreditation status shall not relieve any school or division of annual reporting
102 requirements.

103 Each local school board shall maintain schools that are fully accredited pursuant to the standards for
104 accreditation as prescribed by the Board. Each local school board shall report the accreditation status of all
105 schools in the local school division annually in public session.

106 The Board shall establish a review process to assist any school that does not meet the standards
107 established by the Board. The relevant school board shall report the results of such review and any annual
108 progress reports in public session and shall implement any actions identified through such review and utilize
109 them for improvement planning.

110 The Board shall establish a corrective action plan process for any school that does not meet the standards
111 established by the Board. Such process shall require (a) each school board to submit a corrective action plan
112 for any school in the local school division that does not meet the standards established by the Board and (b)
113 any school board that fails to demonstrate progress in developing or implementing any such corrective action
114 plan to enter into a memorandum of understanding with the Board.

115 When the Board determines through its review process that the failure of schools within a division to meet
116 the standards established by the Board is related to division-level failure to implement the Standards of
117 Quality or other division-level action or inaction, the Board may require a division-level academic review.
118 After the conduct of such review and within the time specified by the Board, each school board shall enter
119 into a memorandum of understanding with the Board and shall subsequently submit to the Board for approval

120 a corrective action plan, consistent with criteria established by the Board setting forth specific actions and a
 121 schedule designed to ensure that schools within its school division meet the standards established by the
 122 Board. If the Board determines that the proposed corrective action plan is not sufficient to enable all schools
 123 within the division to meet the standards established by the Board, the Board may return the plan to the local
 124 school board with directions to submit an amended plan pursuant to Board guidance. Such corrective action
 125 plans shall be part of the relevant school division's comprehensive plan pursuant to § 22.1-253.13:6.

126 B. The Superintendent shall develop, subject to revision by the Board, criteria for determining and
 127 recognizing educational performance in the Commonwealth's local school divisions and public schools. The
 128 portion of such criteria that measures individual student growth shall become an integral part of the
 129 accreditation process for schools in which any grade level in the grade three through eight range is taught.
 130 The Superintendent shall annually report to the Board on the accreditation status of all school divisions and
 131 schools. Such report shall include an analysis of the strengths and weaknesses of public education programs
 132 in the various school divisions in Virginia and recommendations to the General Assembly for further
 133 enhancing student learning uniformly across the Commonwealth. In recognizing educational performance
 134 and individual student growth in the school divisions, the Board shall include consideration of special school
 135 division accomplishments, such as numbers of dual enrollments and students in Advanced Placement and
 136 International Baccalaureate courses, and participation in academic year Governor's Schools.

137 The Superintendent shall assist local school boards in the implementation of action plans for increasing
 138 educational performance and individual student growth in those school divisions and schools that are
 139 identified as not meeting the approved criteria. The Superintendent shall monitor the implementation of and
 140 report to the Board on the effectiveness of the corrective actions taken to improve the educational
 141 performance in such school divisions and schools.

142 C. With such funds as are available for this purpose, the Board shall prescribe assessment methods to
 143 determine the level of achievement of the Standards of Learning objectives by all students. Such assessments
 144 shall *be developed using Universal Design for Learning principles and shall* evaluate knowledge, application
 145 of knowledge, critical thinking, and skills related to the Standards of Learning being assessed. The Board
 146 shall, with the assistance of independent testing experts, conduct a regular analysis and validation process for
 147 these assessments. In lieu of a one-time end-of-year assessment, the Board shall establish, for the purpose of
 148 providing measures of individual student growth over the course of the school year, a through-year growth
 149 assessment system, aligned with the Standards of Learning, for the administration of reading and
 150 mathematics assessments in grades three through eight. Such through-year growth assessment system shall
 151 include at least one beginning-of-year, one mid-year, and one end-of-year assessment in order to provide
 152 individual student growth scores over the course of the school year, but the total time scheduled for taking all
 153 such assessments shall not exceed 150 percent of the time scheduled for taking a single end-of-year
 154 proficiency assessment. The Department shall ensure adequate training for teachers and principals on how to
 155 interpret and use student growth data from such assessments to improve reading and mathematics instruction
 156 in grades three through eight throughout the school year. With such funds and content as are available for
 157 such purpose, such through-year growth assessment system shall provide accurate measurement of a student's
 158 performance, through computer adaptive technology, using test items at, below, and above the student's grade
 159 level as necessary.

160 The Board shall also provide the option of industry certification and state licensure examinations as a
 161 student-selected credit.

162 The Department shall make available to school divisions Standards of Learning assessments typically
 163 administered by high schools by December 1 of the school year in which such assessments are to be
 164 administered or when newly developed assessments are available, whichever is later.

165 The Board shall make publicly available such assessments in a timely manner and as soon as practicable
 166 following the administration of such tests, so long as the release of such assessments does not compromise
 167 test security or deplete the bank of assessment questions necessary to construct subsequent tests, or limit the
 168 ability to test students on demand and provide immediate results in the web-based assessment system.

169 The Board shall prescribe alternative methods of Standards of Learning assessment administration for
 170 children with disabilities, as that term is defined in § 22.1-213, who meet criteria established by the Board to
 171 demonstrate achievement of the Standards of Learning. An eligible student's Individual Education Program
 172 team shall make the final determination as to whether an alternative method of administration is appropriate
 173 for the student.

174 *The Board shall prescribe alternative methods of Standards of Learning assessment administration for*
 175 *any eligible student who is an English language learner identified as having limited English proficiency for*
 176 *all assessments pursuant to the provisions of § 22.1-20.4, including providing for the development and*
 177 *administration of such assessments in languages other than English that are identified as being present to a*
 178 *significant extent in the participating student population. The English language learner faculty at the school*
 179 *of each eligible student who is an English language learner shall make the final determination as to the*
 180 *appropriateness and eligibility of each such student for such alternative assessment administration. Each*

181 *local school board may provide for the administration of Standards of Learning assessments in languages*
182 *other than English in accordance with the provisions of § 22.1-20.4.*

183 The Board shall include in the student outcome and growth measures that are required by the standards of
184 accreditation the required assessments for various grade levels and classes, including the completion of the
185 alternative assessments implemented by each local school board, in accordance with the Standards of
186 Learning. These assessments shall include end-of-course or end-of-grade tests for English, mathematics,
187 science, and history and social science and may be integrated to include multiple subject areas.

188 The Standards of Learning assessments administered to students in grades three through eight shall not
189 exceed (i) reading and mathematics in grades three and four; (ii) reading, mathematics, and science in grade
190 five; (iii) reading and mathematics in grades six and seven; (iv) reading, writing, and mathematics in grade
191 eight; (v) science after the student receives instruction in the grade six science, life science, and physical
192 science Standards of Learning and before the student completes grade eight; and (vi) Virginia Studies and
193 Civics and Economics once each at the grade levels deemed appropriate by each local school board. The
194 reading and mathematics assessments administered to students in grades three through eight shall be through-
195 year growth assessments.

196 Each school board shall annually certify that it has provided instruction and administered an alternative
197 assessment, consistent with Board guidelines, to students in grades three through eight in each Standards of
198 Learning subject area in which a Standards of Learning assessment was not administered during the school
199 year. Such guidelines shall (a) incorporate options for age-appropriate, authentic performance assessments
200 and portfolios with rubrics and other methodologies designed to ensure that students are making adequate
201 academic progress in the subject area and that the Standards of Learning content is being taught; (b) permit
202 and encourage integrated assessments that include multiple subject areas; and (c) emphasize collaboration
203 between teachers to administer and substantiate the assessments and the professional development of teachers
204 to enable them to make the best use of alternative assessments.

205 Local school divisions shall provide targeted mathematics remediation and intervention to students in
206 grades six through eight who show computational deficiencies as demonstrated by their individual
207 performance on any diagnostic test or grade-level Standards of Learning mathematics test that measures non-
208 calculator computational skills.

209 The Department shall award recovery credit to any student in grades three through eight who performs
210 below grade level on a Standards of Learning assessment in English reading or mathematics, receives
211 remediation, and subsequently retakes and performs at or above grade level on such an assessment, including
212 any such student who subsequently retakes such an assessment on an expedited basis.

213 In addition, to assess the educational progress of students, the Board shall (1) develop appropriate
214 assessments, which may include criterion-referenced tests and other assessment instruments that may be used
215 by classroom teachers; (2) select appropriate industry certification and state licensure examinations; and (3)
216 prescribe and provide measures, which may include nationally normed tests to be used to identify students
217 who score in the bottom quartile at selected grade levels.

218 The Standards of Learning requirements, including all related assessments, shall be waived for any
219 student awarded a scholarship under the Brown v. Board of Education Scholarship Program, pursuant to §
220 30-231.2, who is enrolled in a preparation program for a high school equivalency examination approved by
221 the Board or in an adult basic education program or an adult secondary education program to obtain the high
222 school diploma or a high school equivalency certificate.

223 The Department shall develop processes for informing school divisions of changes in the Standards of
224 Learning.

225 The Board may adopt special provisions related to the administration and use of any Standards of
226 Learning test or tests in a content area as applied to accreditation ratings for any period during which the
227 Standards of Learning content or assessments in that area are being revised and phased in. Prior to statewide
228 administration of such tests, the Board shall provide notice to local school boards regarding such special
229 provisions.

230 The Board shall not include in its calculation of the passage rate for a Standards of Learning assessment or
231 the level of achievement of the Standards of Learning objectives for an individual student growth assessment
232 for the purposes of state accountability any student whose parent has decided to not have his child take such
233 Standards of Learning assessment, unless such exclusions would result in the school's not meeting any
234 required state or federal participation rate.

235 D. The Board may pursue all available civil remedies pursuant to § 22.1-19.1 or administrative action
236 pursuant to § 22.1-292.1 for breaches in test security and unauthorized alteration of test materials or test
237 results.

238 The Board may initiate or cause to be initiated a review or investigation of any alleged breach in security,
239 unauthorized alteration, or improper administration of tests, including the exclusion of students from testing
240 who are required to be assessed, by local school board employees responsible for the distribution or
241 administration of the tests.

242 Records and other information furnished to or prepared by the Board during the conduct of a review or

243 investigation may be withheld pursuant to subdivision 10 of § 2.2-3705.3. However, this section shall not
 244 prohibit the disclosure of records to (i) a local school board or division superintendent for the purpose of
 245 permitting such board or superintendent to consider or to take personnel action with regard to an employee or
 246 (ii) any requester, after the conclusion of a review or investigation, in a form that (a) does not reveal the
 247 identity of any person making a complaint or supplying information to the Board on a confidential basis and
 248 (b) does not compromise the security of any test mandated by the Board. Any local school board or division
 249 superintendent receiving such records or other information shall, upon taking personnel action against a
 250 relevant employee, place copies of such records or information relating to the specific employee in such
 251 person's personnel file.

252 Notwithstanding any other provision of state law, no test or examination authorized by this section,
 253 including the Standards of Learning assessments, shall be released or required to be released as minimum
 254 competency tests, if, in the judgment of the Board, such release would breach the security of such test or
 255 examination or deplete the bank of questions necessary to construct future secure tests.

256 E. With such funds as may be appropriated, the Board may provide, through an agreement with vendors
 257 having the technical capacity and expertise to provide computerized tests and assessments, and test
 258 construction, analysis, and security, for (i) web-based computerized tests and assessments, including
 259 computer-adaptive Standards of Learning assessments, for the evaluation of student progress during and after
 260 remediation and (ii) the development of a remediation item bank directly related to the Standards of Learning.

261 F. To assess the educational progress of students as individuals and as groups, each local school board
 262 shall require the use of Standards of Learning assessments, alternative assessments, and other relevant data,
 263 such as industry certification and state licensure examinations, to evaluate student progress and to determine
 264 educational performance. Each local school shall require the administration of appropriate assessments to
 265 students, which may include criterion-referenced tests and teacher-made tests and shall include the Standards
 266 of Learning assessments, the local school board's alternative assessments, and the National Assessment of
 267 Educational Progress state-by-state assessment. Each school board shall provide teachers, parents, principals,
 268 and other school leaders with their students' results on any Standards of Learning assessment or Virginia
 269 Alternate Assessment Program assessment as soon as practicable after the assessment is administered. Each
 270 school board shall analyze and report annually, in compliance with any criteria that may be established by the
 271 Board, the results from industry certification examinations and the Standards of Learning assessments to the
 272 public.

273 The Board shall include requirements for the reporting of the Standards of Learning assessment data,
 274 regardless of accreditation frequency, as part of the Board's requirements relating to the School Performance
 275 Report Card. Such scores shall be disaggregated for each school by student subgroups on the Virginia
 276 assessment program as appropriate and shall be reported to the public within three months of their receipt.
 277 These reports (i) shall be posted on the portion of the Department's website relating to the School
 278 Performance Report Card, in a format and in a manner that allows year-to-year comparisons, and (ii) may
 279 include the National Assessment of Educational Progress state-by-state assessment.

280 G. Each local school division superintendent shall regularly review the division's submission of data and
 281 reports required by state and federal law and regulations to ensure that all information is accurate and
 282 submitted in a timely fashion. The Superintendent shall provide a list of the required reports and data to
 283 division superintendents annually. The status of compliance with this requirement shall be included in the
 284 Board's annual report to the Governor and the General Assembly as required by § 22.1-18.

285 H. Any school board may request the Board for release from state regulations or, on behalf of one or more
 286 of its schools, for approval of an Individual School Accreditation Plan for the evaluation of the performance
 287 of one or more of its schools as authorized for certain other schools by the Standards for Accreditation
 288 pursuant to 8VAC20-131-280 C of the Virginia Administrative Code. Waivers of regulatory requirements
 289 may be granted by the Board based on submission of a request from the division superintendent and chairman
 290 of the local school board. The Board may grant, for a period up to five years, a waiver of regulatory
 291 requirements that are not (i) mandated by state or federal law or (ii) designed to promote health or safety. The
 292 school board shall provide in its waiver request a description of how the releases from state regulations are
 293 designed to increase the quality of instruction and improve the achievement of students in the affected school
 294 or schools. The Department shall provide (a) guidance to any local school division that requests releases from
 295 state regulations and (b) information about opportunities to form partnerships with other agencies or entities
 296 to any local school division in which the school or schools granted releases from state regulations have
 297 demonstrated improvement in the quality of instruction and the achievement of students.

298 The Board may also grant local school boards waivers of specific requirements in § 22.1-253.13:2, based
 299 on submission of a request from the division superintendent and chairman of the local school board,
 300 permitting the local school board to assign instructional personnel to the schools with the greatest needs, so
 301 long as the school division employs a sufficient number of personnel divisionwide to meet the total number
 302 required by § 22.1-253.13:2 and all pupil/teacher ratios and class size maximums set forth in subsection C of
 303 § 22.1-253.13:2 are met. The school board shall provide in its request a description of how the waivers from

304 specific Standards of Quality staffing standards are designed to increase the quality of instruction and
305 improve the achievement of students in the affected school or schools. The waivers may be renewed in up to
306 five-year increments, or revoked, based on student achievement results in the affected school or schools.
307 **2. That the provisions of this act shall be implemented by the beginning of the 2025–2026 school year.**